

**REMARKS**

This is in response to the Office Action mailed May 5, 2009 ("the Office Action").

By this reply, claims 38-40, 48, 58, 59, 62, 65, and 66 are amended, and claim 47 is canceled. The originally filed specification, drawings, and claims fully support the subject matter of the amended claims. Accordingly, claims 38-41, 43-45, 48-51, and 57-66 are pending.

**35 U.S.C. § 112 Rejections of Claims 39, 40, and 58**

In the Office Action, claims 39, 40, and 58 were rejected under 35 U.S.C. § 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which the Applicant regards as the invention. Specifically, the Examiner alleges that "the cross-section" in line 1 of claims 39 and 40 lacks antecedent basis and that "the distal joint" in lines 2-3 of claim 58 lacks antecedent basis. Applicant has amended claims 39, 40, and 58 to correct these minor informalities.

**Allowed/Allowable Claims**

Applicant thanks the Examiner for allowing claim 64 and indicating the allowability of the subject matter of claims 48-50, 62, and 63. Based on that indication of allowability, Applicant has placed claims 48 and 62 in independent form. Claims 48-50, 62, and 63 therefore are in condition for allowance.

**Anticipation Rejections of Claims 38, 44, 47, and 57-60**

In the Office Action, claims 38, 44, 47, and 57-60 were rejected under 35 U.S.C. § 102(b) as being unpatentable over U.S. Patent 5,462,553 to Dolgin ("Dolgin").<sup>1</sup>

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<sup>1</sup> The Examiner cites U.S. Patent 5,462,533 in the Office Action, however, this patent is not to Dolgin and the Examiner's arguments correspond to U.S. Patent 5,462,553. Furthermore, U.S. Patent 5,462,553 to Dolgin is listed in the Notice of References Cited.

A claim is anticipated only if each and every element as set forth in the claim is found, either expressly or inherently described, in a prior art reference. Dolgin does not disclose all of the elements of amended independent claims 38 and 59. Specifically, Dolgin at least does not disclose that a basket distal end comprises a tip member and the tip member releases from a plurality of wires when a joint fails. The Examiner alleges that Dolgin discloses the claimed “tip member,” however, the Examiner does not point out what feature in Dolgin corresponds to the “tip member.” Applicant disagrees with the Examiner’s assertion that Dolgin discloses the claimed “tip member.” In addition, even assuming *arguendo* that Dolgin does disclose the claimed “tip member,” Dolgin does not disclose that the tip member releases from a plurality of wires when a joint fails. Instead, Dolgin simply discloses that loop 116 is configured to break at weakened region 120 when additional force is applied to element 34.

Therefore, Applicant requests withdrawal of the 35 U.S.C. § 102(b) rejection of claims 38 and 59. Since claims 44, 57, 58, and 60 depend from independent claims 38 and 59, Applicant also requests withdrawal of the 35 U.S.C. § 102(b) rejection of these claims for at least these same reasons.

### **Obviousness Rejections of Claims 39-41 and 66**

In the Office Action, claims 39-41 and were rejected under 35 U.S.C. § 103(a) as being unpatentable over Dolgin in view of U.S. Patent 5,944,728 to Bates (“Bates”). Specifically, the Examiner recognizes that Dolgin does not specifically teach that the distal end of at least one wire is scored, that the cross-section of at least one wire is D-shaped or V-shaped, or that at least one wire comprises stainless steel. The Examiner asserts that Bates teaches these features. Bates, however, does not teach the features discussed above and missing from Dolgin. Amended independent claim 66 recites that

a basket distal end comprises a tip member and the tip member releases from a plurality of wires when a joint fails. This is the same limitation discussed above with regard to amended independent claims 38 and 59.

Therefore, Applicant requests withdrawal of the 35 U.S.C. § 103(a) rejection of claim 66. Since claims 39-41 depend from independent claim 38, Applicant also requests withdrawal of the 35 U.S.C. § 103(a) rejection of these claims for at least these same reasons.

### **Obviousness Rejection of Claim 43**

In the Office Action, claim 43 was rejected under 35 U.S.C. § 103(a) as being unpatentable over Dolgin in view of U.S. Patent 5,059,199 to Okada (“Okada”). Specifically, the Examiner recognizes that Dolgin does not specifically teach that each of the plurality of wires comprises four bends. The Examiner asserts that Okada teaches this feature. Okada, however, does not teach the features discussed above and missing from Dolgin.

Since claim 43 depends from independent claim 38, Applicant also requests withdrawal of the 35 U.S.C. § 103(a) rejection of this claim for at least these same reasons.

### **Obviousness Rejection of Claim 45**

In the Office Action, claim 45 and were rejected under 35 U.S.C. § 103(a) as being unpatentable over Dolgin. Specifically, the Examiner recognizes that Dolgin does not specifically teach that the radial stiffness of at least one wire is greater than 0.7 g/mm. The Examiner asserts that it would have been obvious to modify the radial stiffness of the wire to discover optimum or workable ranges. This assertion, however, does not correct the deficiencies in Dolgin that are discussed above.

Since claim 45 depends from independent claim 38, Applicant also requests withdrawal of the 35 U.S.C. § 103(a) rejection of this claim for at least these same reasons.

### **Obviousness Rejections of Claims 51, 61, and 65**

In the Office Action, claims 51, 61, and 65 were rejected under 35 U.S.C. § 103(a) as being unpatentable over Dolgin in view of U.S. Patent 4,467,930 to Schnell ("Schnell"). Specifically, the Examiner recognizes that Dolgin does not specifically teach that the joint comprises at least one of a weld joint, an overmolding joint, an adhesive joint, or a solder joint. The Examiner asserts that Schnell teaches a frangible joint which is formed by overmolding. Schnell, however, does not teach the features discussed above and missing from Dolgin. Amended independent claim 65 recites that a basket distal end comprises a tip member and the tip member releases from a plurality of wires when a joint fails. This is the same limitation discussed above with regard to amended independent claims 38 and 59.

Therefore, Applicant requests withdrawal of the 35 U.S.C. § 103(a) rejection of claim 66. Since claims 51 and 61 depend from independent claims 38 and 59, Applicant also requests withdrawal of the 35 U.S.C. § 103(a) rejection of these claims for at least these same reasons.

### **Conclusion**

Applicant submits that the claimed invention is not anticipated nor rendered obvious in view of the prior art references cited against the claims. Applicant therefore requests reconsideration and reexamination of the application, and the timely allowance of the pending claims.

The Office Action contains characterizations of the claims and the alleged related art, with which Applicant does not necessarily agree. Unless expressly noted otherwise, Applicant declines to subscribe to any statement or characterization in the Office Action.

Please grant any extensions of time required to enter this response and charge any additional required fees to our Deposit Account 06-0916.

Respectfully submitted,

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